

Introduced: 3/28/69
Referred: State Affairs
and Judiciary

BY THE RULES COMMITTEE
BY REQUEST

1 IN THE HOUSE

2 HOUSE BILL NO. 338

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the protection and use of state
7 highways and roads; and providing for an effective
8 date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 19.25.020(a) is amended to read:

11 (a) If, incident to the construction of a highway project on a
12 federal-aid primary or secondary system, or the interstate system in-
13 cluding its extensions in an urban area, the department determines and
14 orders that a utility facility located in, over, along, or under a
15 road right-of-way must be changed, relocated, or removed, the utility
16 owning or in charge of the facility shall change, relocate or remove it
17 within a reasonable time set by the department. If the utility does not
18 change, relocate or remove a utility facility within the time set by
19 the department, the encroachments specified in the order become sub-
20 ject to the provisions of secs. 200 - 250 of this chapter [AS SOON AS
21 POSSIBLE IN ACCORDANCE WITH THE ORDER].

22 * Sec. 2. AS 19.05:130 is amended by adding a new paragraph to read:

23 (13) "encroachment" includes a tower, pole, poleline, pipe,
24 pipeline, driveway, private road, fence, billboard, stand or building,
25 or structure or object of any kind or character not particularly
26 mentioned in this section, which is placed in, under or over a portion
27 of the highway.

28 * Sec. 3. AS 19.25 is amended by adding new sections to read:

29 ARTICLE 4. ENCROACHMENTS IN HIGHWAYS.

1 Sec. 19.25.200. REMOVAL OF ENCROACHMENTS. If an encroachment
2 exists in, under or over a state highway, the department may require the
3 removal of the encroachment in the manner provided in secs. 200 - 250 of
4 this chapter.

5 Sec. 19.25.210. NOTICE OF REMOVAL. Except as otherwise provided
6 in secs. 20 and 220 of this chapter, notice shall be given to the owner,
7 occupant or person in possession of the encroachment, or to any other
8 person causing or permitting the encroachment to exist, by serving upon
9 such person a notice containing a demand for the immediate removal of
10 the encroachment. The notice shall describe the encroachment complained
11 of with reasonable certainty as to its character and location. In lieu
12 of service upon the person, service of the notice may be made by
13 registered mail and by posting, for a period of 10 days, a copy of the
14 notice on the encroachment described in the notice.

15 Sec. 19.25.220. SUMMARY REMOVAL. The department may immediately
16 remove from a state highway an encroachment which

17 (1) is not removed, or the removal of which is not commenced
18 before the expiration of 10 days from the service of the notice; or

19 (2) obstructs or prevents the use of the highway by the
20 public.

21 Sec. 19.25.230. REMOVAL AFTER NONCOMPLIANCE AND REMOVAL EXPENSE.
22 The department may remove an encroachment upon the failure of the owner
23 to comply with a notice or demand of the department under the provisions
24 of secs. 20 and 210 of this chapter, and shall have an action to recover
25 the expenses of removal, costs incurred by the state for a claim filed
26 with the department by a highway construction contractor for costs due
27 to delay because an encroachment was not changed, removed, or relocated
28 in accordance with the order of the department, costs and expenses of
29 suit and the sum of \$10 for each day the encroachment remains after the

1 expiration of 10 days from the date of service of the notice or demand.

2 Sec. 19.25.240. ABATEMENT AND RECOVERY OF PENALTY. If the owner,
3 occupant, or person in possession of the encroachment, or person causing
4 or permitting the encroachment to exist, or the agent of any of them,
5 disputes or denies the existence of the encroachment, or refuses to re-
6 move or permit the removal of the encroachment, the department may be-
7 gin an action to abate the encroachment as a public nuisance. If
8 judgment is recovered by the department it may, in addition to having
9 the encroachment adjudged a nuisance and abated, recover \$10 for each
10 day the encroachment remains after the service of the notice in the
11 manner provided in sec. 210 of this chapter, and may also recover its
12 costs and expenses incurred in the action.

13 Sec. 19.25.250. ENCROACHMENT AFTER NOTICE A MISDEMEANOR. Unless
14 an encroachment is authorized under the provisions of sec. 10 of this
15 chapter, a person owning, controlling, placing, or causing or permitting
16 an encroachment in, under or over a state highway to exist after the
17 service upon such person of notice in the manner provided in sec. 210
18 of this chapter, is, in addition to civil liability, guilty of a mis-
19 demeanor.

20 * Sec. 4. This Act takes effect on the day after its passage and approval
21 or on the day it becomes law without approval.
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